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6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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9 JOHN HOWARD,

10 Plaintiff,

11 v.  
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13 JEFFREY HAW, and CAROL D. SMITH,

14 Defendants.  
15

Case No.: 13-cv-343 JSC

**ORDER REASSIGNING CASE AND  
REPORT AND RECOMMENDATION  
TO DISMISS**

16 This civil action was filed on January 24, 2013. On May 6, 2013, the Court issued an  
17 Order directing Plaintiff to serve the Defendants as he had yet to do so. (Dkt. No. 4.) Based  
18 on Plaintiff's non-response, on June 18, 2013, the Court ordered Plaintiff to show cause as to  
19 why this action should not be dismissed for failure to prosecute pursuant to Federal Rule of  
20 Civil Procedure 41 based on Plaintiff's failure to serve Defendants. (Dkt. No. 5.) The Court  
21 ordered Plaintiff to respond to the Order to Show Cause by July 1, 2013. Plaintiff was  
22 warned that failure to comply with the Court's Order could result in the dismissal of this  
23 action. *See* Fed. R. Civ. P. 41(b). To date, Plaintiff has not filed a response or  
24 communicated with the Court in any way.

25 As Plaintiff has neither consented to nor declined the undersigned magistrate judge's  
26 jurisdiction, the Clerk of the Court is ordered to reassign this action to a district court judge.  
27 Based on the foregoing, this Court RECOMMENDS that the newly assigned district judge  
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1 DISMISS this action for failure to prosecute pursuant to Federal Rule of Civil Procedure  
2 41(b).

3 **IT IS SO ORDERED.**

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5 Dated: July 8, 2013

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7 JACQUELINE SCOTT CORLEY  
8 UNITED STATES MAGISTRATE JUDGE  
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United States District Court  
Northern District of California